

Introduced by Senator Alpert
(Coauthor: Assembly Member Harman)

February 14, 2003

An act to add Section 8841 of the Fish and Game Code, relating to fishing, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 236, as introduced, Alpert. Fishing: bottom trawling.

(1) Existing law generally permits the use of trawl nets, as defined, for the taking of fish and other marine life, except as otherwise prohibited for specific species or in various areas of the state.

This bill, notwithstanding those provisions, would prohibit the Department of Fish and Game from authorizing the use of trawl nets to take fish or other marine life from the ocean floor, unless the Fish and Game Commission determines that the trawl vessel produces an average bycatch, as defined, the operator of each vessel meets certain requirements and participates in an observer program, and that the bottom trawling does not cause significant environmental harm to the ocean floor. The bill would exempt from that prohibition the use of trawl nets pursuant to a scientific research permit and the use of trawl nets to target certain fish in a manner in which the nets and related gear do not contact the ocean floor.

The bill would grant the commission authority to manage bottom trawl fisheries, and would require the commission to establish a transition period for bottom trawlers to shift to increased selectivity. The bill would require the commission to establish an economic assistance program for commercial fishermen and women who are adversely affected by the provisions of the bill, and would grant the

commission authority to establish fees to cover the costs of administering this program.

(2) Existing law continuously appropriates money in the Fish and Game Preservation Fund to the department and the commission to pay all necessary expenses incurred in carrying out the Fish and Game Code and to pay the compensation and expenses of the commissioners and employees of the commission. Unless otherwise provided, all money collected under the code is deposited in the fund.

By imposing new duties on the commission and the department and increasing revenues deposited in the fund, this bill would make an appropriation.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8841 is added to the Fish and Game
2 Code, to read:

3 8841. (a) The Legislature hereby finds and declares all of the
4 following:

5 (1) That fish and other marine life associated with ocean floor
6 habitats within state waters constitute valuable and renewable
7 natural resources. These natural resources are an essential
8 component of marine biodiversity, contribute to the food supply,
9 economy, and health of the people of California, support the
10 economies of coastal communities, and provide recreational
11 opportunities.

12 (2) The people of California are dependent upon healthy and
13 diverse ocean ecosystems for livelihood, recreation, nutrition,
14 medicines, raw materials, quality of life, and valuable natural
15 processes.

16 (3) Diverse types of marine species and plants are found in
17 marine habitats, many of which have not been adequately studied
18 for their potential benefit to society or their ecological importance
19 to fish species and other forms of marine life.

20 (4) Habitat complexity and marine biodiversity on the seafloor
21 are essential to numerous fish species, including commercially and
22 recreationally harvested species that rely on them for food and
23 shelter from predation.



1 (5) The process of bottom trawling reduces habitat complexity
2 and biological diversity by smoothing geologic bedforms and by
3 removing, crushing, burying, and exposing benthic organisms to
4 predators and scavengers.

5 (6) The reduction of biodiversity caused by bottom trawling is
6 detrimental to many environmentally, commercially, and
7 recreationally important species and to the industries and the
8 people that depend on them.

9 (7) Bottom trawling is a wasteful and nonselective form of
10 fishing that is marked by large bycatches, resulting in the death of
11 nontargeted species essential to marine ecosystems.

12 (8) Numerous scientific studies show that bottom trawling has
13 a deleterious impact on marine species, plants, and other
14 organisms that live on or near the ocean floor or are dependent on
15 those species, plants, or other organisms.

16 (9) Bottom trawling in these habitats significantly reduces their
17 value for economically and ecologically important fish and other
18 marine life. Impacts on both sandy bottom and more structurally
19 complex marine environments may be long-term and irreversible.
20 Recovery of some of these areas to their natural state after trawling
21 may take decades. With repeated trawling in the same area, the
22 damage may be irreversible.

23 (10) The protections provided to the marine environment
24 should be as effective as those provided to the terrestrial
25 environment.

26 (11) It is the intent of the Legislature to promote sustainable
27 fisheries and fishing practices that maintain healthy ocean habitat
28 and limit bycatch to acceptable types and amounts, so that the
29 long-term productivity of the resource is not sacrificed in favor of
30 short-term gains.

31 (12) Prohibiting bottom trawling, unless the trawling has
32 limited bycatch and does not cause significant environmental
33 harm to the ocean floor is a practical, precautionary, and
34 enforceable measure to improve protection for environmentally
35 sensitive benthic marine habitats.

36 (13) It is necessary to grant the commission authority over all
37 state-managed bottom trawl fisheries, in order to ensure an orderly
38 phase-out and transition to increased selectivity where feasible,
39 and to provide ongoing oversight of bottom trawl vessels that

1 demonstrate their compliance with the environmental standards of
2 this section.

3 (14) Commercial fishermen and women who are displaced by
4 reductions in the bottom-trawl fisheries affected by this section
5 should receive economic assistance to encourage a transition out
6 of those fisheries.

7 (b) The commission is hereby granted authority to manage all
8 bottom trawl fisheries not currently managed by the National
9 Marine Fisheries Service, consistent with the requirements of this
10 section and in accordance with the requirements of Part 1.7
11 (commencing with Section 7050), including, but not limited to, the
12 following:

13 (1) Halibut.

14 (2) Sea cucumber.

15 (3) Ridge-back, spot and golden prawn.

16 (4) Pink shrimp.

17 (c) Notwithstanding any other provision of law, the department
18 may not authorize the use of trawl nets to take fish or other marine
19 life from the ocean floor, unless the commission determines, based
20 on performance during a transition period and thereafter, that the
21 trawl vessel meets all of the following requirements:

22 (1) Produces an average fish bycatch of less than 15 percent of
23 the total catch in the target fishery and catches no more than 50
24 pounds of prohibited species per trip. Prohibited species, for the
25 purpose of this part, means any species designated by the National
26 Marine Fisheries Service as overfished and caught by the
27 bottom-trawl fisheries, unless retention is authorized by other
28 applicable laws, and any species prohibited under California law.
29 The commission may establish a list of other species that it
30 determines should be considered prohibited species.

31 (2) The operator of the vessel does all of the following:

32 (A) Minimizes its catch of prohibited species.

33 (B) After allowing for sampling by an observer, if an observer
34 is aboard, sorts its catch immediately after retrieval of the gear and
35 returns all prohibited species or parts thereof to the sea
36 immediately, with a minimum of injury, regardless of their
37 condition, pursuant to guidance by the commission.

38 (C) Does not cause significant environmental harm to the
39 ocean floor. Examples of environmental harm include but are not
40 limited to:

1 (i) Substantial adverse impacts on federally overfished species
2 or species listed under the Endangered Species Act (16 U.S.C. Sec.
3 1531 et seq.).

4 (ii) Interference with the use of migratory corridors or nursery
5 sites of ocean fish and wildlife, including marine mammals and
6 birds.

7 (iii) Conflict with habitat protection measures adopted by the
8 Pacific Fishery Management Council or National Marine
9 Fisheries Service.

10 (iv) Damage to bottom habitat as indicated by significant
11 presence in trawl nets of corals, rocks, invertebrates or other
12 non-fish bycatch, or through other documentation.

13 (D) Following the transition period, participates in an observer
14 program that covers at least 50 percent of the annual trips.

15 (d) The commission shall establish a transition period for
16 bottom trawling ending on or before January 1, 2006. During that
17 period, the commission shall encourage bottom trawlers to shift to
18 increased selectivity where that shift will not contribute to
19 overcapacity or overfishing.

20 (1) Bottom trawling during the transition period shall occur
21 only under experimental fishing permits (EFPs) that meet the
22 following conditions:

23 (A) Each EFP shall have a plan for gathering essential
24 information, including amount and make-up of bycatch, verified
25 by an on-board observer.

26 (B) Each EFP shall have a plan for testing equipment or
27 practices to reduce bycatch.

28 (C) Bottom trawling in state waters, use of roller gear more
29 than 8 inches in diameter and use of halibut trawl nets with mesh
30 smaller than 7.5 inches shall be prohibited.

31 (2) The department may discontinue an EFP at any time if fish
32 bycatch is more than 15 percent of total catch by weight.

33 (e) The commission shall establish a program to administer any
34 available economic assistance for commercial fishermen and
35 women who are adversely affected by restrictions on bottom
36 trawling pursuant to this section. The program may include boat
37 buybacks, financial assistance for the purchase of new equipment,
38 loans, grants, and other assistance as the Commission deems
39 appropriate, subject to available funding.

1 (f) The commission is granted authority to establish fees to
2 cover the cost of administering this section, including the cost of
3 observers and collection and analysis of data.

4 (g) This section does not apply to either of the following:

5 (1) The use of trawl nets pursuant to a scientific research
6 permit.

7 (2) The use of trawl nets to target midwater or pelagic fish in
8 a manner in which the trawl nets and related gear do not contact
9 the ocean floor.

